

NEW YORK SUPREME COURT, COLUMBIA COUNTY

The People of New York

Coram Ipso Rege:

&

New York Unified Common Law Grand Jury

Coram Nobis:

-a-

STATE OF NEW YORK SUPREME COURT

Jonathan Lippman, Fern A. Fisher, Lawrence K. Marks,
Barry Kamins, Ronald Younkings,

Wrongdoers:

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MAGISTRATE _____

SUMMONS

YOU ARE HEREBY SUMMONED and required to answer, by paper, and IN PERSON this endorsed summons in the New York Supreme Court, Columbia County, Courthouse; located at 621 State Route 23B; Claverack, New York, 12513; on the 7th day of April, 2014 at 9:30 AM;

Upon your failure to answer it will be interpreted as contempt of court and an admission of willful intent engaging in criminal activity against the People of New York, an arrest warrant will be issued and judgment will be taken against you for the relief demanded in quo warranto.

This is a common Law procedure executed *Coram Nobis*, the Magistrate has “NO” authority to approve requests for time extensions or postpone said summons, grand jurist will be laying aside all business and will be traveling from across the state, likewise is expected of the accused.

This procedure is for a show-cause to the criminal allegations presented by the extraordinary writ, Quo Warranto, demanding that the Peoples’ stewards give account of their stewardship, therefore “NO” motions will be considered, ANSWERS ARE DEMANDED.

Signed by order and on behalf of the Unified New York, Common Law Grand Jury

Unified New York Common Law Grand Jury
PO Box 59; Valhalla, New York 10595.
Phone (845) 229-0044; Fax (888) 891-8977

NEW YORK SUPREME COURT, COLUMBIA COUNTY

The People of New York

Coram Ipso Rege:¹

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&

5 New York Unified Common Law Grand Jury

MAGISTRATE _____

Coram Nobis:²

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VERIFIED UNDER SEAL

STATE OF NEW YORK SUPREME COURT

OBSTA PRINCIPIIS³

10 Jonathan Lippman, Fern A. Fisher, Lawrence K. Marks,
Barry Kamins, Ronald Younkings,

Wrongdoers:⁴

15

WRIT QUO WARRANTO⁵

New York Unified Common Law Grand Jury, hereinafter the People⁶, come against the STATE OF NEW YORK SUPREME COURT charging Jonathan Lippman⁷, Fern A. Fisher⁸, Lawrence K. Marks⁹, Barry Kamins¹⁰, and Ronald Younkings¹¹ for neglect to prevent¹² conspiracy and

¹ Before the king himself the old name of the court of king's bench, which was originally held before the king in person. 3 Bl.Comm. 41. "The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative". Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7. [tribunal during trial]

² [Blacks Law] Before us ourselves, (the king, i. e., in the king's or queen's bench.) [tribunal pre trial] **CORAM NOBIS**. [Blacks Law] Before us ourselves, (the king, i. e., in the king's or queen's bench.) Applied to writs of error directed to another branch of the same court, e. g., from the full bench to the court at *nisi prius*. 1 Archb. Pr. K. B. 234. See Writ of Error.

³ **OBSTA PRINCIPIIS. Lat.** Withstand begin-nings; resist the first approaches or encroach-ments. Bradley, J., Boyd v. U. S., 116 U.S. 635, 6 Sup.Ct. 535, 29 L.Ed. 746.

⁴ **WRONGDOER.** "One who commits an injury; a tort-feasor. The term ordinarily imports an invasion of right to the damage of the party who suffers such invasion". Merrill v. Comstock, 154 Wis. 434, 143 N.W. 313, 317.

⁵ **QUO WARRANTO.** In old English practice. A writ, in the nature of a writ of right for the king, against him who claimed or usurped any office, franchise, or liberty, to inquire by what authority he supported his claim, in order to determine the right. It lay also in case of non-user, or long neglect of a franchise, or misuser or abuse of it; being a writ commanding the defendant to show by what warrant he exercises such a franchise, having never had any grant of it, or having forfeited it by neglect or abuse. 3 Bl.Comm. 262.

⁶ **PEOPLE.** People are supreme, not the state. [Waring vs. the Mayor of Savannah, 60 Georgiaat 93]; The state cannot diminish rights of the people. [Hertado v. California, 100 US 516]; Preamble to the US and NY Constitutions - We the people ... do ordain and establish this Constitution...; ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves... [CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 DALL (1793) pp471-472]: The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. [Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7].

⁷ Executive Officer Chief Judge

⁸ Executive Officer Deputy Chief Administrative Judge within NYC

⁹ Executive Officer First Deputy Chief Administrative Judge

20 felony rescue; concerning the indictments; against A. Gail Prudenti¹³, Michael V. Coccoma¹⁴, C.
Randall Hinrichs¹⁵, Allan, D Scheinkman¹⁶, Charles M. Tailleir¹⁷, Michelle Carrol¹⁸, and Terry
Wilhelm¹⁹; hereinafter wrongdoers in this court of record²⁰ proceeding according to the common
law²¹;

CORAM VOBIS

25 This is a common law proceeding, appearing before the People²² themselves, to answer to the
People the writ quo warranto²³, directed upon New York State Judicial Executive branch
servants: Personal appearances required, failure to appear will be consider contempt of court
and subject to arrest. Said servants have a duty to speak without attorneys.

30 *"We have twice suggested, though not held, that the Sixth Amendment right to
counsel does not attach when an individual is summoned to appear before a*

¹⁰ Executive Officer Chief of Policy & Planning

¹¹ Executive Officer Executive Director

¹² **42 USC §1986 - Action for neglect to prevent** - Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

¹³ Executive Officer Chief Administrative Judge

¹⁴ Executive Officer Deputy Chief Administrative Judge outside NYC

¹⁵ District Administrative Judge for Suffolk County

¹⁶ Administrative Judge for the Ninth Judicial District

¹⁷ Green County Supreme Court Judge

¹⁸ Green County Supreme Court Clerk

¹⁹ Green County Supreme Court Judge

²⁰ **NY Constitution Article VI.b.** ... the supreme court ... shall be courts of record.; "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689].

²¹ **COMMON LAW** - As distinguished from law created by the enactment of legislatures [admiralty], the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs; and, in this sense, particularly the ancient unwritten law of England. [1 Kent, Comm. 492. Western Union Tel. Co. v. Call Pub. Co., 21 S.Ct. 561, 181 U.S. 92, 45 L.Ed. 765; Barry v. Port Jervis, 72 N.Y.S. 104, 64 App. Div. 268; U. S. v. Miller, D.C.Wash., 236 F. 798, 800.];

²² King, Grand Jury

²³ See Memorandum of Law the Kings Bench, attached.

grand jury, even if he is the subject of the investigation". United States v. Mandujano, 425 U.S. 564, 581, 96 S.Ct. 1768, 1778, 48 L.Ed.2d 212 (1976) (plurality opinion); In re Groban, 352 U.S. 330, 333, 77 S.Ct. 510, 513, 1 L.Ed.2d 376 (1957); see also Fed.Rule Crim.Proc. 6(d).

35 **WE COMMAND** that Jonathan Lippman, Fern A. Fisher, Lawrence K. Marks, Barry Kamins²⁴,
and Ronald Younkings show by what warrant they exercise such a franchise that enables them to
conspire and misuse their office usurping themselves, under color of law, in order to prevent the
sovereign²⁵ People of New York from exercising their unalienable right of self government
declared in the Declaration of Independence²⁶ and protected under the 5th, 6th, and 7th
40 Amendments, thereby disenfranchising all the sovereign People of New York and thereby
causing the trying²⁷ of the corporate title "STATE OF NEW YORK".

The sovereign People also **COMMAND** that A. Gail Prudenti, Michael V. Coccoma, C. Randall
Hinrichs, Allan, D Scheinkman, Charles M. Tailleur, Michelle Carrol, and Terry Wilhelm be
arrested, removed from office immediately, and proceed for trial.

45 Wrongdoers are servants under oath holding positions of trust and have a lawful duty to answer
plainly and directly to the sovereign People, silence is fraud and therefor an admission of guilt.

²⁴ Executive Officer Chief of Policy & Planning

²⁵ "'Sovereignty' means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree." *Moscow Fire Ins. Co. of Moscow, Russia v. Bank of New York & Trust Co.*, 294 N.Y.S. 648, 662, 161 Misc. 903.; "The very meaning of 'sovereignty' is that the decree of the sovereign makes law." *American [Banana Co. v. United Fruit Co.]*, 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047].; The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. *Lansing v. Smith*, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.; The state cannot diminish rights of the people. *Hurtado v. People of the State of California*, 110 U.S. 516.

²⁶ **THE DECLARATION OF INDEPENDENCE** We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.-- That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,

²⁷ **QUO WARRANTO** In England, and quite generally throughout the United States, this writ has given place to an "information in the nature of a quo warranto," which, though in form a criminal proceeding, is in effect a civil remedy similar to the old writ, and is the method now usually employed for trying the title to a corporate or other franchise, or to a public or corporate office. *Ames v. Kansas*, 111 U.S. 449, 4 S.Ct. 437, 28 L.Ed. 482; *People v. Londoner*, 13 Colo. 303, 22 P. 764, 6 L.R.A. 444;

“Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . .”
U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032;
50 Carmine v. Bowen, 64 A. 932

Wrongdoers being servants are “not” to answer through counsel. It is an insult to the sovereign People when a steward commanded to give account of their stewardship insulates themselves with counsel, and double so, when they expect their masters to pay for the priestly counsel.

55 We the People will receive answers through counsel as a non-answer, furthermore this is a Writ of Quo Warranto, therefore a motion of any kind is not valid and if made will be taken as a non-answer. Failure to respond or responding inappropriately will be considered contempt of court.

The servant simply does not have the authority to legislate or decree away common law endowed upon the people with or without their consent, to attempt or accomplish that malevolence would be an act of high treason²⁸, a clear act of war upon the people.

60 If wrongdoers Jonathan Lippman, Fern A. Fisher, Lawrence K. Marks, Barry Kamins²⁹, and Ronald Younkens confess that they have error and proceed to inform the sixty-two clerks of the court to call upon the custodians of the courthouse to make provisions to receive the sovereign People to their rightful place within the courthouse a reprieve from the said charges against them will be granted. The sovereign People have no desire to seek out and prosecute past
65 wrongdoings, we desire only to look forward and work with our servants to heal our land.

²⁸ Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason. [Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958)]

²⁹ Executive Officer Chief of Policy & Planning

WE THE PEOPLE PROCEED OBSTA PRINCIPIIS³⁰ and by our own authority as the Ordainers of this Republic, any attempt by the officers of the court to move in the direction of fiction will be considered an act of lawless violence and said court [officers] would be vulnerable to collateral attack from this superior court of record immediately with a “predetermination” by the Unified
70 New York Common Law Grand Jury that such an act is an act of treason, felony rescue and warrants an immediate prepared presentment, therefore the magistrate is to reflect the virtuous will of the tribunal³¹. See Memorandum Law of the Case.

GRIEVANCES

Wrongdoers are required to affirmatively prove the authority claimed by written citation of the
75 Articles and Sections of the Constitution that pertain to your claim, that the People cannot have access to their court to administer to juries or comply immediately.

“Government officers and agents are required to affirmatively prove whatever authority they claim. In the absence of proof, they may be held personally accountable for loss, injury and damages”. RYDER v. UNITED STATES, 115
80 S.Ct. 2031, 132 L.Ed.2d 136, 515 U.S. 177,

“Failure to contest an assertion ... is considered evidence of acquiescence”. US Supreme Court - Mitchell v. United States - No. 97-7541 Argued December 9, 1998

“For purposes of this subdivision an evasive or incomplete disclosure, answer, or response is to be treated as a failure to disclose, answer, or respond”
85 Cunningham v. Hamilton County No. 98-727 Argued April 19, 1999 Decided June 14, 1999 527 U.S. 198

UNITED STATES v. WILLIAMS³² said; *“Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional*

³⁰ see Memorandum of Law and Jurisdiction attached

³¹ Grand Jury

³² UNITED STATES v. WILLIAMS; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352;

90 *relationship with the judicial branch has traditionally been, so to speak, at arm's length*³³.

Wrongdoers in an act of violence³⁴, an act of tyranny, blocked the sovereign People from operating out of the courthouse thereby forcing the sovereign People to take action in tents outside the courthouse under judicial auspices of the process.

95 Wrongdoers acted in concert, thereby conspiratorial, under the color of law using their entrusted authority, to prevent the sovereign people from functioning³⁵ as a Grand Jury³⁶, clearly no such authority exists.

Wrongdoers actions have denied the sovereign Peoples right of self rule³⁷ by claiming that the fifth amendment's unfettered right of Jury^{38,39} has been abrogated.

100 Wrongdoers, who are hired servants, claim courts have supervisory control over the sovereign People and that they cannot form outside the auspices of the court. Whereas in US v Williams

³³ **AT ARM'S LENGTH.** Beyond the reach of personal influence or control. Parties are said to deal "at arm's length" when each stands upon the strict letter of his rights, and conducts the business in a formal manner, without trusting to the other's fairness or integrity, and without being subject to the other's control or overmastering influence.

³⁴ **VIOLENCE.** Unjust or unwarranted exercise of force, usually with the accompaniment of vehemence, outrage or fury. People v. McIlvain, 55 Cal. App.2d 322, 130 P.2d 131, 134.; the abuse of force, that force which is employed against common right, against the laws, and against public liberty. Merl. Repert; Anderson-Berney Bldg. Co. v. Lowry, Tex.Civ.App., 143 S.W.2d 401, 403.

³⁵ **NEW YORK CONSTITUTION ARTICLE I. BILL OF RIGHTS. §6.** The power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments or to direct the filing of informations in connection with such inquiries, shall never be suspended or impaired by law.

³⁶ Because the grand jury is an institution separate from the courts, over whose functioning the courts do not preside, we think it clear that, as a general matter at least, no such "supervisory" judicial authority exists... UNITED STATES v. WILLIAMS; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352;

³⁷ **THE DECLARATION OF INDEPENDENCE**, July 4, 1776. ...We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,...

³⁸ The Court of Appeals' rule would neither preserve nor enhance the traditional functioning of the grand jury that the "common law" of the Fifth Amendment demands. UNITED STATES v. WILLIAMS; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352;

³⁹ "[R]ooted in long centuries of Anglo-American history," Hannah v. Larche, 363 U.S. 420, 490, 80 S.Ct. 1502, 1544, 4 L.Ed.2d 1307 (1960) (Frankfurter, J., concurring in result), the grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It " 'is a constitutional fixture in its own right.' " United States v. Chanen, 549 F.2d 1306, 1312 (CA9 1977) (quoting Nixon v. Sirica, 159 U.S.App.D.C. 58, 70, n. 54, 487 F.2d 700, 712, n. 54 - quoted in UNITED STATES v. WILLIAMS; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352;

concluded: *“Because the grand jury is an institution separate from the courts, over whose functioning the courts do not preside, we think it clear that, as a general matter at least, no such “supervisory” judicial authority exists, and that the disclosure rule applied here exceeded the*
105 *Tenth Circuit’s authority. ... Given the grand jury’s operational separateness from its constituting court, it should come as no surprise that we have been reluctant to invoke the judicial supervisory power as a basis for prescribing modes of grand jury procedure. Over the years, we have received many requests to exercise supervision over the grand jury’s evidence-taking process, but we have refused them all, including some more appealing than the one presented*
110 *today”*. UNITED STATES v. WILLIAMS; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352; Furthermore the preamble⁴⁰ states; *“We the people ... ordain and establish this Constitution for the United States of America”* which clearly ranks the People above the constitution and our servant government under the chains of the constitution, with no authority whatsoever to alter it.

Wrongdoers claim the Fifth Amendment is territorial and does not apply to the States. But the
115 Supremacy Clause says different; *“This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding”*. Constitution for the United States of America Article VI Clause 2.

120 Wrongdoers claim the courts, controlled by them, does not permit for a grand jury controlled by the people. But UNITED STATES v. WILLIAMS⁴¹ said *“Because the grand jury is an institution separate from the courts, over whose functioning the courts do not preside, we think it*

⁴⁰ Constitution for the United States of America

⁴¹ UNITED STATES v. WILLIAMS; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352;

clear that, as a general matter at least, no such "supervisory" judicial authority exists"; and
NEW YORK CONSTITUTION ARTICLE I. BILL OF RIGHTS. §6. "The power of grand juries
125 to inquire into the willful misconduct in office of public officers, and to find indictments or to
direct the filing of informations in connection with such inquiries, shall never be suspended or
impaired by law"; and ARTICLE I BILL OF RIGHTS, Section 1. "No member of this state shall
be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof,"

Wrongdoers have defrauded the sovereign People by changing our common law courts of record
130 to statutory courts not of record thereby fraud carrying the People away to foreign courts,
unbeknown to them because of centralized education.

INJURIES

Because judges, not the sovereign People, monitor themselves our courts have lost Justice
(Godliness).

135 Because judges, not the sovereign People, monitor themselves we have government
(corporatism) by servant judges and not by the People.

Because judges, not the sovereign People, monitor themselves sovereign People without BAR
attorneys consistently find themselves cast out of court under the guise of "no standing" or "no
cause of action".

140 Because judges, not the People, monitor themselves the sovereign People find themselves under
corporate charter, not the constitution.

Because judges, not the sovereign People, monitor themselves People are hijacked into a nisi
prius court.

Because judges, not the sovereign People, monitor themselves People after denying consent to
145 the fraudulent jurisdiction are steamrolled anyway.

Because judges, not the sovereign People, monitor themselves judges maintain the status quo.

Because judges, not the sovereign People, monitor themselves judges are politically expedient
and ignore jurisprudence.

Because judges, not the sovereign People, monitor themselves People are fleeced by corporate
150 tax collectors.

Because judges, not the sovereign People, monitor themselves People imprisoned for crimes they
did not commit.

Because judges, not the sovereign People, monitor themselves People imprisoned by statutes
with no injured party.

155 Because judges, not the sovereign People, monitor themselves People lose their homes and
savings to corporations without contracts or sworn affidavits.

Because judges, not the sovereign People, monitor themselves People lose their children to
lawless corporate social services.

160 Because judges, not the sovereign People, monitor themselves People lose their dignity, life's
savings, homes, and their right to peace in their twilight years.

Because judges, not the sovereign People, monitor themselves People are exposed to poisons by
the air they breathe, the food they eat, and the water that they drink.

Because judges, not the sovereign People, monitor themselves people have lost their unalienable right protected by the 1st Amendment for “redress of grievances”, for “freedom of religion”, and
165 “free speech”.

Because judges, not the sovereign People, monitor themselves people have lost their unalienable right protected by the 2nd Amendment for “a regulated militia” and to “keep and bear arms” without infringement.

Because judges, not the sovereign People, monitor themselves people have lost their unalienable
170 right protected by the 4th Amendment to be secure in their persons, houses, papers, and effects, (cars, financial institution) against unreasonable searches and seizures.

Because judges, not the sovereign People, monitor themselves people have lost their unalienable right protected by the 5th Amendment to administrate to their own Grand Jury, not puppets, thereby having due process of law.

175 Because judges, not the sovereign People, monitor themselves people have lost their unalienable right protected by the 6th Amendment to a speedy and public trial, an impartial jury, and Assistance of Counsel, not attorneys.

Because judges, not the sovereign People, monitor themselves people have lost their unalienable right protected by the 7th Amendment to common law and trial by a jury of the People.

180 Because judges, not the sovereign People, monitor themselves people have lost their unalienable right protected by the 8th Amendment excessive bail, cruel and unusual punishments inflicted. Courts should not be all about jail and money for the state, but about the restoration of the injured party.

Because judges, not the sovereign People, monitor themselves people have lost their protection
185 of domestic tranquility (through constant assault by corporate codes, agents and swarms of
corporate police), common defense (foreign troops on American soil), general welfare, and
liberty.

DUTY OF COURTS

Wrongdoers are derelict of duty:

190 *"It is the duty of the courts to be watchful for the Constitutional rights of the
citizen and against any stealthy encroachments thereon"* Boyd v. United States,
116 U.S. 616, 635

Wrongdoers have brought upon the People an evil day:

195 *"It will be an evil day for American Liberty if the theory of a government outside
supreme law finds lodgment in our constitutional jurisprudence. No higher duty
rests upon this Court than to exert its full authority to prevent all violations of the
principles of the Constitution."* Downs v. Bidwell, 182 U.S. 244 (1901).

Wrongdoers are guilty of treason to the Constitution:

200 *"We (judges) have no more right to decline the exercise of jurisdiction which is
given, than to usurp that which is not given. The one or the other would be
treason to the Constitution."* Cohen v. Virginia, (1821), 6 Wheat. 264 and U.S. v.
Will, 449 U.S. 200

Wrongdoers were not watchful for the Constitutional Rights of the People:

205 *"It may be that it is the obnoxious thing in its mildest form; but illegitimate and
unconstitutional practices get their first footing in that way; namely, by silent
approaches and slight deviations from legal modes of procedure. This can only be
obviated by adhering to the rule that constitutional provisions for the security of
persons and property should be liberally construed. A close and literal
construction deprives them of half their efficacy, and leads to gradual*

210 *depreciation of the right, as if it consisted more in sound than in substance. It is*
the duty of the Courts to be watchful for the Constitutional Rights of the Citizens,
and against any stealthy encroachments thereon. Their motto should be Obsta
Principiis." Boyd v. United, 116 U.S. 616 at 635 (1885)

ALL THE WRONGDOERS ACTED IN CONCERT UNDER COLOR OF LAW, statute, regulations, and
215 custom having willfully deprived the People of New York of our unalienable rights and
immunities secured and protected by the United States Constitution;

WHEREFORE, WE THE PEOPLE DEMAND That you give account of your stewardship;

- 1) Answer the aforementioned grievances by affidavit under penalty of perjury and not
through counsel.
- 220 2) Communicate to all court clerks and judges to stand-down
- 3) Introduce the Common Law Grand Jury Administrators of each county to the custodian
for access to the courthouse for office space and a conference room.
- 4) Notify New York State comptroller of the transfer of duties and therefore the funds
necessary for the expenses Unified New York Common Law Grand Jury Administrators.
- 225 5) A written certified copy of your constitutional oath of office, as required by Article VI,
Paragraph 3 of the Constitution for the United States and 5 U.S.C. § 3331;
- 6) A written certified copy of your civil commission as agent or officer of the Government
you claim to work for, as required by Article II § 3 of the Constitution of the United
States of America and attending legislation;
- 230 7) Your affidavit declaring that you did not pay for or otherwise make or promise
consideration to secure the office (5 U.S.C. § 3332);

- 8) Your personal surety bond; and documentation that establishes your complete line of chain of command delegated authority, including all intermediaries, beginning with the President of the United States, or the Governor of the State you claim authority from.
- 235 9) These documents should all be filed as public records. See 5 U.S.C. § 2906 for requirements concerning filing oaths of office. In the event you do not have a personal surety bond, you may provide a copy of your financial statement, which you are required to file annually. Your financial statement will be construed as a private treaty surety bond in the event that you exceed lawful authority.
- 240 10) Collateral issues other than the above requests intended to document your personal standing will be addressed separately from this demand.
- 11) You must provide the requested items within ten (10) calendar days from receipt of this demand.
- 12) Failure to comply with all the demands of this Writ of Quo Warranto will be an admission that all parties are willful intent engaging in criminal activity against the People and will be interpreted as contempt of court.
- 245

If you fail to satisfy the demand within the allotted time after having been duly served with this Quo Warranto, then by tacit procurement the Unified New York Common Law Grand Jury will determine for the STATE OF NEW YORK SUPREME COURT wrongdoers, and persons acting in concert who caused said injuries to secure the Peoples substantive rights and to redeem damages owed the People and take lawful action in personam and in rem to redeem the damages owed the People and determine for you the following:

250

- 1) That the aforesaid demand is just,
- 2) Dissolution of the corporate charter

- 255 3) That a court of record in New York may enforce the demand either ex parte or con parte,
4) That you, and each of you, concur and are satisfied with the justness of the demand, and
the process by which the demand shall be enforced.

Signed by ORDER *and on behalf of the* UNIFIED COMMON LAW GRAND JURY *of* NEW YORK

260

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Administrator

265

270

275

NEW YORK SUPREME COURT, COLUMBIA COUNTY

The People of New York

Coram Ipso Rege:¹

&

5 New York Unified Common Law Grand Jury

Coram Nobis:²

-a-

STATE OF NEW YORK SUPREME COURT

10 Jonathan Lippman, Fern A. Fisher, Lawrence K. Marks,
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Wrongdoers:³

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MAGISTRATE _____

MEMORANDUM OF LAW

15

LAW OF THE CASE

20 THE PURPOSE of this memorandum is to clarify the law of the case and thereby Jurisdiction which is "Common Law"⁴ a/k/a Natural Law and often identified as a "Court of Record", it is a system of jurisprudence, who's tribunal is the People and whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt.

25 Nisi Prius courts are "courts not of record" which are inferior and have no power to fine or imprison without the consent of its victim, these nisi prius courts are fiction, created by statutes and not People and therefore have no legal authority. These unconstitutional courts operate under statutes and thereby under corporate charter and not Constitutions. It is the epitome of Corporatism⁵ a system of corporate legislation, who's tribunal is a corporate officer, aka judge.

¹ Before the king himself the old name of the court of king's bench, which was originally held before the king in person. 3 Bl.Comm. 41. "The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative". Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7. [tribunal during trial]

² [Blacks Law] Before us ourselves, (the king, i. e., in the king's or queen's bench.) [tribunal pre trial] **CORAM NOBIS**. [Blacks Law] Before us ourselves, (the king, i. e., in the king's or queen's bench.) Applied to writs of error directed to another branch of the same court, e. g., from the full bench to the court at *nisi prius*. 1 Archb. Pr. K. B. 234. See Writ of Error.

³ **WRONGDOER**. "One who commits an injury; a tort-feasor. The term ordinarily imports an invasion of right to the damage of the party who suffers such invasion". Merrill v. Comstock, 154 Wis. 434, 143 N.W. 313, 317.

⁴ **The common law is the real law**, the Supreme Law of the land, the code, rules, regulations, policy and statutes are "not the law", Self v. Rhay, 61 Wn (2d) 261

⁵ **CORPORATISM**. [Webster] the organization of a society into industrial and professional corporations serving as organs of political representation and exercising control over persons and activities within their jurisdiction

Therefore whenever a nisi prius court proceeds against the will of sovereign People the court and its officers are vulnerable to collateral attack. When such a court forces its minions (BAR lawyers) upon the sovereign or moves to proceed with a competency hearing it wars against the Constitution and commits violence against the People.

“The very meaning of 'sovereignty' is that the decree of the sovereign makes law”, and the following terms are the expression of that decree thereby interpreting the meanings of the phrases and words of the case, The Law of the Case.

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The Law of the case is Decreed as Follows:

I - JUDICIAL NOTICE

75 "*Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence*". [**Black's Law 4th edition**]

Take Judicial notice of **AMERICAN JURISPRUDENCE BOOK 16: CONSTITUTION LAW SECTION** which a judge is bound by oath to obey.

II - JUDGES SWORN TO OBEY CONSTITUTION IRRESPECTIVE OF OPINION AND CONSEQUENCES CONSTITUTION RULES OVER STATUTES

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85
90
95 "*Since the constitution is intended for the observance of the judiciary as well as other departments of government and the judges are sworn to support its provisions, the courts are not at liberty to overlook or disregard its commands or counteract evasions thereof, it is their duty in authorized proceedings to give full effect to the existing constitution and to obey all constitutional provisions irrespective of their opinion as to the wisdom or the desirability of such provisions and irrespective of the consequences, thus it is said that the courts should be in our alert to enforce the provisions of the United States Constitution and guard against their infringement by legislative fiat or otherwise in accordance with these basic principles, the rule is fixed that the duty in the proper case to declare a law unconstitutional cannot be declined and must be performed in accordance with the delivered judgment of the tribunal before which the validity of the enactment it is directly drawn into question. If the Constitution prescribes one rule and the statute the another in a different rule, it is the duty of the courts to declare that the Constitution and not the statute governs in cases before them for judgment." [**16Am Jur 2d., Sec. 155:, emphasis added**]*

III - SUPREMACY CLAUSE

100 "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." [**US Constitution**]

105 "... Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument." after more than 200 years this decision still stands [**Marbury v. Madison 5 U.S. 137 (1803)**]

IV - COMMON LAW IS STILL LAW OF THE LAND

All cases which have cited Marbury v. Madison case, to the Supreme Court has not ever been over turned. [See **Shephard's Citation of Marbury v. Madison.**]

110 The constitution was ordained and established by the people "for" the United States of America
aka government. Therefore government was created by an act of the people therefore the creation
cannot trump the creator.

"If any statement, within any law, which is passed, § unconstitutional, the whole law is
unconstitutional." [Marbury v. Madison: 5 US 137 (1803):] Therefore no legislation

115 ... that statutes which would deprive a citizen of the rights of person or property without a
regular trial, according to the course and usage of common law, would not be the law of the land.
[Hoke vs. Henderson,15, N.C.15,25 AM Dec 677].

"Where rights secured by the Constitution are involved, there can be no rule making or
legislation which would abrogate them" [Miranda v. Arizona, 384 U.S. 436, 491]

120 V - INTERPRETATION IN FAVOR OF THE PEOPLE

Any constitutional provision intended to confer a benefit should be liberally construed in favor in
the clearly intended and expressly designated beneficiary. "Then a constitution should receive a
literal interpretation in favor of the Citizen, is especially true, with respect to those provisions
which were designed to safeguard the liberty and security of the Citizen in regard to person and
125 property." [16Am Jur 2d: 16Am Jur 2d., Sec. 97; Bary v. United States - 273 US 128]

VI - NO EMERGENCY HAS JUST CAUSE TO SUPPRESS THE CONSTITUTION

"While an emergency cannot create power and no emergency justifies the violation of any of the
provisions of the United States Constitution or States Constitutions. Public emergency such as
130 economic depression for especially liberal construction of constitutional powers and it has been
declared that because of national emergency, it is the policy of the courts of times of national
peril, so liberally to construed the special powers vested in the chief executive as to sustain an
effectuate the purpose there of, and to that end also more liberally to construed the constituted
division and classification of the powers of the coordinate branches of the government and in so
135 far as may not be clearly inconsistent with the constitution." [16Am Jur 2d., Sec. 98:]

**VII - CONSTITUTIONS MUST BE CONSTRUED TO REFERENCE
THE COMMON LAW - SUMMARY PROCEEDINGS ARE NULL AND VOID**

140

"As to the construction, with reference to Common Law, an important canon of construction is that constitutions must be construed to reference to the Common Law." "The Common Law, so permitted destruction of the abatement of nuisances by summary proceedings⁶ and is was never supposed that a constitutional provision was intended to interfere with this established principle and although there is no common law of the United States in a since of a national customary law as distinguished from the common law of England, adopted in the several states. In interpreting the Federal Constitution, recourse may still be had to the aid of the Common Law of England. It has been said that without reference to the common law, the language of the Federal Constitution could not be understood." [16Am Jur 2d., Sec. 114:]

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VIII - SHALL NOT INFRINGE

"Various facts of circumstances extrinsic to the constitution are often resorted to, by the courts, to aid them and determining its meaning, as previously noted however, such extrinsic aids may not be resorted to where the provision in the question is clear and unambiguous in such a case the courts must apply the terms of the constitution as written and they are not at liberty to search for meanings beyond the instrument." [16Am Jur 2d., Sec. 117:]

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**IX - IRRECONCILABLE CONFLICT BETWEEN STATUTE AND CONSTITUTION
RESOLVED IN FAVOR OF THE CONSTITUTIONALITY AND THE BENEFICIARY**

"In all instances, where the court exercise it's power to invalidate legislation on constitutional grounds, the conflict of the statute, with the constitution must be irreconcilable. Thus a statute is not to be declared unconstitutional unless so inconsistent with the constitution that it cannot be enforced without a violation thereof. A clear incompatibility between law and the constitution must exist before the judiciary is justified holding the law unconstitutional. This principle is of course in line with the rule that doubts as the constitutionality should be resolved in favor of the constitutionality and the beneficiary." [16Am Jur 2d., Sec. 255:]

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⁶ **Summary proceeding.** Any proceeding by which a controversy is settled, case disposed of, or trial conducted, in a prompt and simple manner, without the aid of a jury, without presentment or indictment, or in other respects out of the regular course of the common law. In procedure, proceedings are said to be summary 'when they are short and simple in comparison with regular proceedings; e., in comparison with the proceedings which alone would have been applicable, either in the same or analogous cases, if summary proceedings had not been available. Sweet. [Blacks Law 4th, and see Phillips v. Phillips, 8 N.J.L. 122.]

X - SUPREME LAW IS THE BASES OF ALL LAW - ALL FICTION OF LAW IS NULL

170 Nisi prius courts relies on statutes, which is fiction of law, that seeks to control⁷ the behavior of
the sovereign⁸ people⁹ of New York, who are under common law, not statutes, and who ordained
and established¹⁰ the law, therefore legislators cannot legislate the behavior of the people.

175 "*No provision of the Constitution is designed to be without effect, "Anything that is in conflict is
null and void of law", "Clearly, for a secondary law to come in conflict with the supreme Law
was illogical, for certainly, the supreme Law would prevail over all other laws and certainly our
forefathers had intended that the supreme Law would be the bases of all law and for any law to
law, no courts are bound to uphold it, and no Citizens are bound to obey it. It operates as a near
nullity or a fiction of law¹¹."*

180 "*All codes, rules, and regulations are for government authorities only, not human/Creators in
accordance come in conflict would be null and void of law, it would bare no power to enforce, in
would bare no obligation to obey, it would purport to settle as if it had never existed, for
unconstitutionality would date from the enactment of such a law, not from the date so branded in
an open court of with God's laws. All codes, rules, and regulations are unconstitutional and
lacking due process...*" [**Rodrigues v. Ray Donovan**]

185 "*The common law is the real law, the Supreme Law of the land, the code, rules, regulations,
policy and statutes are not the law*", [**Self v. Rhay, 61 Wn (2d) 261**]

⁷ **Rom 9:21** Hath not the potter power over the clay,

⁸ The very meaning of 'sovereignty' is that the decree of the sovereign makes law. [**American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.**] A consequence of this prerogative is the legal ubiquity of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice. (**Fortesc.c.8. 2Inst.186**) His judges are the mirror by which the king's image is reflected. [**1 Blackstone's Commentaries, 270, Chapter 7, Section 379.**]

⁹ **PEOPLE.** People are supreme, not the state. [Waring vs. the Mayor of Savannah, 60 Georgiaat 93]; The state cannot diminish rights of the people. [Hertado v. California, 100 US 516]; Preamble to the US and NY Constitutions - We the people ... do ordain and establish this Constitution...; ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves... [CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 DALL (1793) pp471-472]: The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. [Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.]

¹⁰ **US Constitution** - We the people ... do ordain and establish this Constitution for the United States of America.

¹¹ **FICTION OF LAW.** Something known to be false is assumed to be true. Ryan v. Motor Credit Co., 130 N.J.Eq. 531, 23 A.2d 607, 621. that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land. [Hoke vs. Henderson,15, N.C.15,25 AM Dec 677]. A rule of law which assumes as true, and will not allow to be disproved, something which is false, but not impossible. Best, Ev. 419.

**XI - NO ONE IS BOUND TO OBEY AN UNCONSTITUTIONAL LAW
NO COURTS ARE BOUND TO ENFORCE IT**

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"The general rule is that a unconstitutional statute, whether Federal or State, though having the form and name of law as in reality no law, but is wholly void and ineffective for any purpose since unconstitutionality dates from the enactment and not merrily from the date of the decision so braining it. An unconstitutional law in legal contemplation is as inoperative as if it never had been passed. Such a statute lives a question that is purports to settle just as it would be had the statute not ever been enacted. No repeal of an enactment is necessary, since an unconstitutional law is void. The general principles follows that it imposes no duty, converse no rights, creates no office, bestows no power of authority on anyone, affords no protection and justifies no acts performed under it. A contract which rests on a unconstitutional statute creates no obligation to be impaired by subsequent legislation. No one is bound to obey an unconstitutional law. No courts are bound to enforce it. Persons convicted and fined under a statute subsequently held unconstitutional may recover the fines paid. A void act cannot be legally inconsistent with a valid one and an unconstitutional law cannot operate to supersede an existing valid law. Indeed, in so far as a statute runs counter to the fundamental law of the land, it is superseded thereby. Since an unconstitutional statute cannot repeal, or in anyway effect an existing one, if a repealing statute is unconstitutional, the statute which it attempts to repeal, remains in full force and effect and where a statute in which it attempts to repeal remains in full force and effect and where a clause repealing a prior law is inserted in the act, which act is unconstitutional and void, the provision of the repeal of the prior law will usually fall with it and will not be permitted to operate as repealing such prior law. The general principle stated above applied to the constitution as well as the laws of the several states insofar as they are repugnant to the constitution and laws of the United States." [16Am Jur 2d., Sec. 256:]

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XII - CONGRESS CANNOT ALTER RIGHTS

"On the other hand it is clear that Congress cannot by authorization or ratification give the slightest effect to a state law or constitution which is in conflict with the Constitution of the United States." [16Am Jur 2d., Sec. 258]

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XIII - RIGHTS DO NOT COME IN DEGREES

"Although it is manifested that an unconstitutional provision in the statute is not cured because included in the same act with valid provisions and that there is no degrees of constitutionality." [16Am Jur 2d., Sec. 260:]

220

XIV - STATES CANNOT LICENSE RIGHTS

225 "A state may not impose a charge for the enjoyment of a right granted by the Federal
Constitution and that a flat license tax here involves restraints in advance the constitutional
liberties of Press and Religion and inevitably tends to suppress their existence. That the
ordinance is non-discriminatory and that it applies also to peddlers of wares and merchandise is
immaterial. The liberties granted by the first amendment are and in a preferred position. Since
230 the privilege in question is guaranteed by the Federal Constitution and exist independently of the
states authority, the inquiry as to whether the state has given something for which it cannot ask a
return, is irrelevant. No state may convert any secured liberty into a privilege and issue a license
and a fee for it." [**Mudook v. Penn. 319 US 105:(1943)**]

235 "If the state does convert your right into a privilege and issue a license and a fee for it, you can
ignore the license and a fee and engage the right with impunity." [**Shuttlesworth v.
Birmingham Al. 373 US 262:(1962)**]

XV - "OFFICERS OF THE COURT HAVE NO IMMUNITY WHEN VIOLATING CONSTITUTIONAL RIGHT, FROM LIABILITY"

240 "The right of action created by statute relating to deprivation under color of law, of a right
secured by the constitution and the laws of the United States and comes claims which are based
solely on statutory violations of Federal Law and applied to the claim that claimants had been
deprived of their rights, in some capacity, to which they were entitled." **Owen v.Independence
100 Vol. Supreme Court Reports. 1398:(1982); Main v. Thiboutot 100 Vol. Supreme Court
245 Reports. 2502:(1982)**

Title 18 US Code Sec. 241 & Sec. 242: "If upon conviction, you are subject to a \$10,000.00
fine, ten years in jail, or both, and if theft results, life in prison." **Title 42 US Code Sec. 1983,
Sec. 1985, & Sec. 1986:** Clearly established the right to sue anyone who violates your
constitutional rights. The Constitution guarantees: he who would unlawfully jeopardize your
250 property loses property to you, and that's what justice is all about. "Judge are deemed to know
the law and are sworn to uphold it and can hardly claim that they acted in good faith for willful
deformation of a law and certainly cannot plead ignorance of the law, for that would make the law
look unintelligent for a knowledgeable judge to claim ignorance of a law, when a Citizen on the
street cannot claim ignorance of the law. Therefore, there is no judicial immunity."

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XVI - IMMUNITY:

260 *"Where there is no jurisdiction, there can be no discretion"*

Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason. [**Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958)**]

265 There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign. [**Cooper v. O'Conner, 99 F.2d 133**]

A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts. [**Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938)**]

270 "The courts are not bound by an officer's interpretation of the law under which he presumes to act." [**Hoffsomer v. Hayes, 92 Okla 32, 227 F. 417**]

"Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction." [**Piper v. Pearson, 2 Gray 120, cited in Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872)**]

275 "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it." ... "It is the only supreme power in our system of government, and every man who, by accepting office participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives." [**U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882)**]

280

XVII - SOVEREIGNTY:

285 *The very meaning of 'sovereignty' is that the decree of the sovereign makes law*

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business.... The people of this state do not yield their sovereignty to the agencies which serve them. ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves....." [CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp471-472.]

290 *"The very meaning of 'sovereignty' is that the decree of the sovereign makes law".* [American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.]

295 *"The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative".* [Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.]

300 *"A consequence of this prerogative is the legal ubiquity of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice".* (Fortesc.c.8. 2Inst.186) *"His judges are the mirror by which the king's image is reflected".* [1 Blackstone's Commentaries, 270, Chapter 7, Section 379.]

SOVEREIGNTY [Black's Law Dictionary, Fourth Edition] - The power to do everything in a state without accountability,--to make laws, to execute and to apply them, to impose and collect
305 taxes and levy contributions, to make war or peace, to form treaties of alliance or of commerce with foreign nations, and the like. [Story, Const. Sec 207]

*"Sovereignty in government is that public authority which directs or orders what is to be done by each member associated in relation to the end of the association. It is the supreme power by which any citizen is governed and is the person or body of persons in the state to whom there is
310 politically no superior. The necessary existence of the state and that right and power which necessarily follow is "sovereignty." By "sovereignty in its largest sense is meant supreme,*

absolute, uncontrollable power, the absolute right to govern. The word which by itself comes nearest to being the definition of "sovereignty" is will or volition as applied to political affairs". [City of Bisbee v. Cochise County, 52 Ariz. 1, 78 P.2d 982, 986].

315 "The very meaning of 'sovereignty' is that the decree of the sovereign makes law." American [Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047].

"Sovereignty' means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree." [Moscow Fire Ins. Co. of Moscow, 320 Russia v. Bank of New York & Trust Co., 294 N.Y.S. 648, 662, 161 Misc. 903].

RESERVATION OF SOVEREIGNTY: "[15] (b) Even if the Tribe's power to tax were derived solely from its power to exclude non-Indians from the reservation, the Tribe has the authority to impose the severance tax. Non-Indians who lawfully enter tribal lands remain subject to a tribe's power to exclude them, which power includes the lesser power to tax or place other conditions
325 on the non-Indian's conduct or continued presence on the reservation. The Tribe's role as commercial partner with petitioners should not be confused with its role as sovereign. "It is one thing to find that the Tribe has agreed to sell the right to use the land and take valuable minerals from it, and quite another to find that the Tribe has abandoned its sovereign powers simply because it has not expressly reserved them through a contract. To presume that a sovereign
330 forever waives the right to exercise one of its powers unless it expressly reserves the right to exercise that power in a commercial agreement turns the concept of sovereignty on its head". (emphasis added) [MERRION ET AL., DBA MERRION & BAYLESS, ET AL. v. JICARILLA APACHE TRIBE ET AL. 1982.SCT.394 , 455 U.S. 130, 102 S. Ct. 894, 71 L. Ed. 2d 21, 50 U.S.L.W. 4169 pp. 144-148].

335

XVIII - RIGHTS:

The state cannot diminish rights of the people

"The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice". [Davis v. Wechsler, 263 US 22, 24.]

340 "Where rights secured by the Constitution are involved, there can be no rule making or
legislation which would abrogate them". [Miranda v. Arizona, 384 US 436, 491.]

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional
rights". [Sherer v. Cullen, 481 F 946.]

345 "The state cannot diminish rights of the people." [Hurtado v. People of the State of California,
110 U.S. 516]

"Republican government. One in which the powers of sovereignty are vested in the people and
are exercised by the people, either directly, or through representatives chosen by the people, to
whom those powers are specially delegated." [In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35
L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627." Black's Law
350 Dictionary, Fifth Edition, p. 626.]

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;
and all Treaties made, or which shall be made, under the Authority of the United States, shall be
the supreme Law of the Land; and the Judges in every State shall be bound thereby; any Thing in
the Constitution or Laws of any State to the Contrary notwithstanding." [Constitution for the
355 United States of America, Article VI, Clause 2.]

XIX - LAW:

The common law is the real law

360 AT LAW. [Bouvier's Law, 1856 Edition] This phrase is used to point out that a thing is to be
done according to the course of the common law; it is distinguished from a proceeding in equity.

"The common law is the real law, the Supreme Law of the land, the code, rules, regulations,
policy and statutes are not the law", [Self v. Rhay, 61 Wn (2d) 261]

"All laws, rules and practices which are repugnant to the Constitution are null and void"
[Marbury v. Madison, 5th US (2 Cranch) 137, 180]

365 "The very meaning of 'sovereignty' is that the decree of the sovereign makes law." [**American
Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas.
1047]**]

370 "Sovereignty itself is, of course, not subject to law, for it is the author and source of law;" [**Yick
Wo v. Hopkins, 118 US 356, 370 (Undersigned is Sovereign and no court has challenged
that status/standing)**]

XX - COURT

An agency of the sovereign created by it directly or indirectly under its authority

375 COURT - The person and suit of the sovereign; the place where the sovereign sojourns with his
regal retinue, wherever that may be. [**Black's Law Dictionary, 5th Edition, page 318.**]

380 COURT - "*An agency of the sovereign created by it directly or indirectly under its authority,
consisting of one or more officers, established and maintained for the purpose of hearing and
determining issues of law and fact regarding legal rights and alleged violations thereof, and of
applying the sanctions of the law, authorized to exercise its powers in the course of law at times
and places previously determined by lawful authority*". [**Isbill v. Stovall, Tex.Civ.App., 92
S.W.2d 1067, 1070; Black's Law Dictionary, 4th Edition, page 425]**]

XXI - COURTS OF RECORD

a judicial tribunal ... independently of the person of the magistrate

385 COURTS OF RECORD AND COURTS NOT OF RECORD - "*The former being those whose acts and
judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and
which have power to fine or imprison for contempt. Error lies to their judgments, and they
generally possess a seal. Courts not of record are those of inferior dignity, which have no power
to fine or imprison, and in which the proceedings are not enrolled or recorded*". [**3 Bl. Comm.
24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52**
390

Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231].

395 "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689].

400 NEW YORK STATE CONSTITUTION ARTICLE VI ... As of right, from a judgment or order of a Court of Record of original jurisdiction which finally determines an action or special proceeding where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States; and on any such appeal only the constitutional question shall be considered and determined by the court.

To be a court of record a court must have four characteristics, and may have a fifth, they are:

405 A) "*A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it*" [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

410 B) "*Proceeding according to the course of common law*" [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

415 C) "*Its acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony.*" [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231]

D) "*Has power to fine or imprison for contempt.*" [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225;

Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

420

E) "*Generally possesses a seal.*" [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

425 The decisions of a superior court may only be challenged in a court of appeal. The decisions of an inferior court are subject to collateral attack. In other words, in a superior court one may sue an inferior court directly, rather than resort to appeal to an appellate court. Decision of a court of record may not be appealed. It is binding on ALL other courts. However, no statutory or constitutional court (whether it be an appellate or supreme court) can second guess the judgment of a court of record. "*The judgment of a court of record whose jurisdiction is final, is as*
430 *conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it.*" [Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973)]].

435 A court of record is a superior court. A court not of record is an inferior court. Inferior courts are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law. Criminal courts proceed according to statutory law. Jurisdiction and procedure is defined by statute. Likewise, civil courts and admiralty courts proceed according to statutory law. Any court proceeding according to statutory law is not a court of record (which
440 only proceeds according to common law); it is an inferior court.

"The only inherent difference ordinarily recognized between superior and inferior courts is that there is a presumption in favor of the validity of the judgments of the former, none in favor of those of the latter, and that a superior court may be shown not to have had power to render a particular judgment by reference to its record. Note, however, that a 'superior court' is the name
445 of a particular court. But when a court acts by virtue of a special statute conferring jurisdiction in a certain class of cases, it is a court of inferior or limited jurisdiction for the time being, no matter what its ordinary status may be.

COURT OF RECORD - Conclusion, from the definitions above, that a court of record is a court which must meet the following criteria:

- 450
- 1) Generally has a seal
 - 2) Power to fine or imprison for contempt
 - 3) Keeps a record of the proceedings
 - 4) Proceeding according to the common law (not statutes or codes)
 - 5) The tribunal is independent of the magistrate (judge)

455 **NOTE** that a judge is a magistrate and is not the tribunal. The tribunal is either the sovereign himself, or a fully empowered jury (not paid by the government)

The court of appeals, the supreme court including the appellate divisions thereof, the court of claims, the county court, the surrogate's court, the family court, the courts or court of civil and criminal jurisdiction of the city of New York, and such other courts as the legislature may
460 determine shall be courts of record. [**New York State Constitution Article VI, 1b (2)b**]

N.Y.JUD.LAW §753: NY Code Section 753: (A) A court of record has power to punish, by fine and imprisonment, or either, a neglect or violation of duty, or other misconduct, by which a right or remedy of a party to a civil action or special proceeding, pending in the court may be defeated, impaired, impeded, or prejudiced, in any of the following cases:

465 (1) An attorney, counselor, clerk, sheriff, coroner, or other person, in any manner duly selected or appointed to perform a judicial or ministerial service, for a misbehavior in his office or trust, or for a willful neglect or violation of duty therein; or for disobedience to a lawful mandate of the court, or of a judge thereof, or of an officer authorized to perform the duties of such a judge.

(2) A party to the action or special proceeding, for putting in fictitious bail or a fictitious surety,
470 or for any deceit or abuse of a mandate or proceeding of the court.

(3) A party to the action or special proceeding, an attorney, counselor, or other person, for the non-payment of a sum of money, ordered or adjudged by the court to be paid, in a case where by law execution cannot be awarded for the collection of such sum except as otherwise specifically provided by the civil practice law and rules; or for any other disobedience to a lawful
475 mandate of the court.

480 (4) A person, for assuming to be an attorney or counselor, or other officer of the court, and acting as such without authority; for rescuing any property or person in the custody of an officer, by virtue of a mandate of the court; for unlawfully detaining, or fraudulently and willfully preventing, or disabling from attending or testifying, a witness, or a party to the action or special proceeding, while going to, remaining at, or returning from, the sitting where it is noticed for trial or hearing; and for any other unlawful interference with the proceedings therein.

(5) A person subpoenaed as a witness, for refusing or neglecting to obey the subpoena, or to attend, or to be sworn, or to answer as a witness.

485 (6) A person duly notified to attend as a juror, at a term of the court, for improperly conversing with a party to an action or special proceeding, to be tried at that term, or with any other person, in relation to the merits of that action or special proceeding; or for receiving a communication from any person, in relation to the merits of such an action or special proceeding, without immediately disclosing the same to the court; or a person who attends and acts or attempts to act as a juror in the place and stead of a person who has been duly notified to attend.

490 (7) An inferior magistrate, or a judge or other officer of an inferior court, for proceeding, contrary to law, in a cause or matter, which has been removed from his jurisdiction to the court inflicting the punishment; or for disobedience to a lawful order or other mandate of the latter court.

495 (8) In any other case, where an attachment or any other proceeding to punish for a contempt, has been usually adopted and practiced in a court of record, to enforce a civil remedy of a party to an action or special proceeding in that court, or to protect the right of a party.

When the contempt is not committed in the immediate view and presence of the court, or of the judge at chambers, an affidavit shall be presented to the court or judge of the facts constituting the contempt, or a statement of the facts by the referees or arbitrators, or other judicial officers...

500

XXII - MAGISTRATE

Judges are magistrates

505 MAGISTRATE - A person holding official power in a government; as: a The official of highest rank in a government (chief, or first, magistrate). b An official of a class having summary, often criminal, jurisdiction. [**Merriam-Webster Dictionary**]

MAGISTRATE - an official entrusted with administration of the laws [**Black's Law Dictionary, 4th Ed., 1103**].

510 MAGISTRATE - Person clothed with power as a public civil officer. [**State ex rel. Miller v. McLeod, 142 Fla. 254, 194 So. 628, 630**].

MAGISTRATE - "A public officer belonging to the civil organization of the state, and invested with powers and functions which may be either judicial, legislative, or executive. But the term is commonly used in a narrower sense, designating, in England, a person entrusted with the
515 commission of the peace, and, in America, one of the class of inferior judicial officers, such as justices of the peace and police justices". [**Martin v. State, 32 Ark. 124; Ex parte White, 15 Nev. 146, 37 Am. Rep. 466; State v. Allen, 83 Fla. 655, 92 So. 155, 156; Merritt v. Merritt, 193 Iowa 899, 188 N.W. 32, 34**].

The word "magistrate" does not necessarily imply an officer exercising any judicial functions,
520 and might very well be held to embrace notaries and commissioners of deeds. [**Schultz v. Merchants' Ins. Co., 57 Mo. 336**].

Judges are magistrates [**N.Y. CRC. LAW § 30 : NY Code - Section 30:**]

Judges as Magistrates **New York Family Court - Part 5 - § 151**

SECTION 146 OF THE NEW YORK CODE OF CRIMINAL PROCEDURE defines a magistrate as an
525 officer having power to issue a warrant for the arrest of a person charged with a crime. This broad definition embraces the judges of the Supreme Court, the County Courts and General Sessions of the County of New York, as well as a number of local courts of limited jurisdiction authorized by law to act in criminal matters.

530 ...our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to
guide, shall allow the said charters pleaded before them in judgment in all their points, that is to
wit, the Great Charter as the common law.... [Confirmatio Cartarum, November 5, 1297,
Sources of Our Liberties Edited by Richard L. Perry, American Bar Foundation]

Henceforth the writ which is called Praeceptum shall not be served on any one for any holding so as
to cause a free man to lose his court. [Magna Carta, Article 34].

535

XXIII - SUIT

The witnesses or followers of the plaintiff

SUIT [Black's Law Dictionary, 4th Ed.,] - The witnesses or followers of the plaintiff. [**3 Bl.
Comm. 295. See Secta;**].

540 SUIT [Black's Law Dictionary, 4th Ed.,] - A generic term, of comprehensive signification, and
applies to any proceeding by one person or persons against another or others in a court of justice
in which the plaintiff pursues, in such court, the remedy which the law affords him for the
redress of an injury or the enforcement of a right, whether at law or in equity. **Kohl v. U.S., 91
U.S. 375, 23 L.Ed. 449; Weston v. Charleston, 2 Pet. 464, 7 L.Ed. 481; Syracuse Plaster Co.
545 v. Agostini Bros. Bldg. Corporation, 169 Misc. 564 7 N.Y.S.2d 897.**

XXIV - TRIBUNAL

TRIBUNAL "*The seat of a judge; the place where he administers justice. The whole body of
judges who compose a jurisdiction; a judicial court; the jurisdiction which the judges exercise.*"

550 **Foster v. Worcester, 16 Pick. (Mass.) 81.**

TRIBUNAL [Webster's New Practical Dictionary, 707 (1953) G. & C. Merriam Co., Springfield,
Mass.] - 1. In ancient Rome, a magistrate whose special function was to protect the interests of
plebeian citizens from the patricians. 2. Any defender of the people.

XXV - RECORD

the process, the pleadings, the verdict and the judgment

A "*minute order*" issued by a judge is not part of the record.

RECORD - The proceedings of the courts of common law are records. But every minute made by a clerk of a court for his own future guidance in making up his record is not a record. **4 Wash. C.C. 698. See 10 Penn. St. 157; 2 Pick. Mass. 448; 4 N. II. 450; 6 id. 567; 5 Ohio St. 545; 3 Wend. N.Y. 267; 2 Vt. 573; 6 id. 580; 5 Day, Conn. 363; 3 T. B. Monr. Ky. 63.**

"The Common-Law Record consists of the process, the pleadings, the verdict and the judgment. After judgment, such errors were reviewable by Writ of Error. Errors which occurred at the trial were not part of the Common-Law Record, and could be reviewed by a motion for a new trial, after verdict and before judgment; by statute, such errors could be reviewed after judgment by incorporating them into the record by means of a bill of exceptions. It was therefore essential to keep clearly in mind the distinction between matter of record and matter of exception.

"Under the ancient practice, the proceedings in a litigated case were entered upon the parchment roll, and when this was completed, the end product became known as the Common-Law Record. It consisted of four parts,

(1) the process, which included the original writ and the return of the Sheriff, by which the court acquired jurisdiction over the defendant;

(2) the pleadings, presented by the parties in the prescribed order to develop an issue of law or of fact, and which included the declaration and all subsequent pleadings, together with the demurrers, if any;

(3) the Verdict;

(4) and the Judgment.

These four elements formed the Common-Law Record, but it should be observed that at the point where the retrospective motions come into play, the record has not been developed beyond the stage of entering the verdict upon the roll. At this point it should also be recalled that between the time when the pleadings terminated in an issue, which joinder in issue was duly recorded on

the parchment roll, and the time when an entry of the verdict was made, nothing was recorded on the parchment roll. The reason for this was that between the joinder of issue and the rendition of the verdict, the trial takes place, and what occurs during this trial does not appear upon the face
585 of the Common-Law Record. Thus, offers and rejection of evidence, the court's instruction of the jury, or its refusal to instruct as requested by counsel, or any misconduct connected with the trial, such as prejudicial remarks on the part of the court, and the like—that is—any Error that occurs at the Trial—cannot be corrected by resort to the Common-Law Record because not apparent upon its face. Such errors were preserved only in the notes made by the presiding judge,
590 or in his memory, and were reviewable, after verdict and before final judgment, by a motion for new trial made before the Court En Banc at Westminster, within four days after the commencement of the next term following the rendition of the verdict. As each of the judges of the court had motions of a similar character coming up for decision from the trials over which they had presided, the natural inclination of each judge was to support the rulings of his brother
595 jurists, and thus overrule the motion for a new trial. Furthermore, errors that occurred at the trial were not reviewable after judgment on Writ of Error, because not apparent on any one of the four parts of the Common-Law Record. **To remedy this defect, Parliament enacted Chapter 31 of the Statute of Westminster II in 1285/6 which provided for review of such errors through the use of what came to be known as a Bill of Exceptions.**

600 "Thus, it appears that in four out of five retrospective motions, the court is permitted to consider only defects apparent upon the face of part of the Common-Law Record—the process, the pleadings, and the verdict—and errors occurring at the trial were regarded as extraneous and not to be considered in rendering judgment upon the motions. Matters extraneous to or outside of the record could be tested after verdict and before judgment only by a motion for a new trial. A
605 distinction is made between matter of record and matter of exception, matter of record referring to those errors apparent upon the face of the Common-Law Record and hence reviewable after final judgment upon a Writ of Error, and matter of exception referring to those errors which occurred at the trial, and were not apparent on the face of the Common-Law Record, hence reviewable after final judgment only by incorporating such errors into the record by means of a
610 **Bill of Exceptions, as authorized by Chapter 31 of the Statute of Westminster II in 1285.**"
Koffler: Common Law Pleading 567-568

Proceedings in courts of chancery are said not to be, strictly speaking, records; but they are so considered. **Gresley, Ev. 101. And see 8 Mart. La. N. S. 303; 1 Rawle, Penn. 381; 8 Yorg. Tenn. 142; 1 Pet. C. C. 352.**

615

XXVI - MINUTE

Minutes are not considered as any part of the record

MINUTE [Bouvier's Law Dictionary, 14th Ed.] In practice. A memorandum of what takes place in court, made by authority of the court. From these minutes the record is afterwards made up.

620 Toulhier says they are so called because the writing in which they were originally was small; that the word is derived from the Latin *minuta (scriptura)*, in opposition to copies which were delivered to the parties, and which were always written in a larger hand. **8 Toullier, n. 413.**

Minutes are not considered as any part of the record. [**1 Ohio, 268. See 23 Pick. Mass. 184.; Bouvier's Law Dictionary, 14th Ed. (1870)**]

625 MINUTE BOOK [Bouvier's Law Dictionary, 14th Ed. (1870)] A book kept by the clerk or prothonotary of a court, in which minutes of its proceedings are entered.

XXVII - STATE

one body politic exercising, through the medium of an organized government

630 STATE [Black's Law Dictionary, Fourth Edition] - A People permanently occupying a fixed territory bound together by common-law habits and custom into one body politic exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into international relations with other communities of the globe. [**United States v. Kusche, D.C.Cal., 56 F.Supp. 201, 207, 208**]. The organization of social life which exercises sovereign power in
635 behalf of the people. [**Delany v. Moraitis, C.C.A.Md., 136 F.2d 129, 130**].

XXVIII - CONSTITUTIONAL PREAMBLES

640 CONSTITUTION FOR THE UNITED STATES OF AMERICA: **We the People** of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, **do ordain and establish** this Constitution for the United States of America.

645 STATE OF NEW YORK CONSTITUTION: **We, the People** of the State of New York, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, **do establish** this Constitution.

650 Both constitutions (and the constitution of any real republic) the operative word is "establish." The People existed in their own individual sovereignty before the constitution was enabled. When the People "establish" a constitution, there is nothing in the word "establish" that signifies that they have yielded any of their sovereignty to the agency they have created. To interpret otherwise would convert the republic into a democracy (**Republic vs. Democracy**).

655 To deprive the People of their sovereignty it is first necessary to get the People to agree to submit to the authority of the entity they have created. That is done by getting them to claim they are citizens of that entity (**see Const. for the U.S.A., XIV Amendment, for the definition of a citizen of the United States.**)

14 C.J.S. 426, 430 - The particular meaning of the word "citizen" is frequently dependent on the context in which it is found [25], and the word must always be taken in the sense which best harmonizes with the subject matter in which it is used [26].

660 One may be considered a citizen for some purposes and not a citizen for other purposes, as, for instance, for commercial purposes, and not for political purposes[27]. So, a person may be a citizen in the sense that as such he is entitled to the protection of his life, liberty, and property, even though he is not vested with the suffrage or other political rights[28].

[25] Cal.--Prowd v. Gore, 2 Dist. 207 P. 490. 57 C.A. 458.; La.--Lepenser v Griffin, 83 So. 839, 146 La. 584; N.Y.--Union Hotel Co. v. Hersee, 79 N.Y. 454

665 [27] U.S.--The Friendschaft, N.C., 16 U.S. 14, 3 Wheat. 14, 4 L.Ed. 322; --Murray v. The Charming Betsy, 6 U.S. 64, 2 Cranch 64, 2 L.Ed. 208; Md.--Risewick v. Davis, 19 Md. 82
Mass.--Judd v. Lawrence, 1 Cush 531; R.I.--Greeough v. Tiverton Police Com'rs, 74 A 785, 30 R.I. 212
[28] Mass.--Dillaway v. Burton, 153 N.E. 13, 256 Mass. 568

670 **XXIX - STATE SOVEREIGNTY -VS- POPULAR SOVEREIGNTY**

A general discussion of two types of sovereignty, and the relative positions of each.

As independent sovereignty, it is State's province and duty to forbid interference by another state or foreign power with status of its own citizens. [**Roberts v Roberts (1947) 81 CA2d 871, 185 P2d 381. Black's Law Dictionary, 4th Ed., p 1300**]

675 A county is a person in a legal sense, [**Lancaster Co. v. Trimble, 34 Neb. 752, 52 N.W. 711; but a sovereign is not; In re Fox, 52 N.Y. 535, 11 Am.Rep. 751; U.S. v. Fox 94 U.S. 315, 24 L.Ed. 192 Black's Law Dictionary, 4th Ed., p 1300**]

A person is such, not because he is human, but because rights and duties are ascribed to him. The person is the legal subject or substance of which the rights and duties are attributes. An
680 individual human being considered as having such attributes is what lawyers call a "natural person." [**Pollock, First Book of Jurispr. 110. Gray, Nature and Sources of Law, ch. II. Black's Law Dictionary, 4th Edition, p 1300**]

The terms "citizen" and "citizenship" are distinguishable from "resident" or "inhabitant."
[**Jeffcott v. Donovan, C.C.A.Ariz., 135 F.2d 213, 214; and from "domicile," Wheeler v. Burgess, 263 Ky. 693, 93 S.W.2d 351, 354; First Carolinas Joint Stock Land Bank of Columbia v. New York Title & Mortgage Co., D.C.S.C., 59 F.2d 35j0, 351**]. The words "citizen" and citizenship," however, usually include the idea of domicile, Delaware,
685 [**L.&W.R.Co. v. Petrowsky, C.C.A.N.Y., 250 F. 554, 557**]; citizen inhabitant and resident often synonymous, [**Jonesboro Trust Co. v. Nutt, 118 Ark. 368, 176 S.W. 322, 324; Edgewater Realty Co. v. Tennessee Coal, Iron & Railroad Co., D.C.Md., 49 F.Supp. 807, 809**]; and citizenship and domicile are often synonymous. [**Messick v. Southern Pa. Bus Co., D.C.Pa., 59 F.Supp. 799, 800. Black's Law Dictionary, 4th Ed., p 310**]

Domicile and citizen are synonymous in federal courts, [**Earley v. Hershey Transit Co., D.C. Pa., 55 F.Supp. 981, 982**]; inhabitant, resident and citizen are synonymous, [**Standard Stoker Co. v. Lower, D.C.Md., 46 F.2d 678, 683. Black's Law Dictionary, 4th Ed., p 311**]

The Constitution emanated from the people and was not the act of sovereign and independent States. [**1 McCulloch v. Maryland, 4 Wheat. 316 [1819]. See also Chisholm v. Georgia, 2 Dall. 419, 470 [1793]; Penhallow v. Doane, 3 Dall. 54, 93 [1795]; Martin v. Hunter, 1 Wheat. 304, 324 [1816]; Barron v. Baltimore, 7 Pet. 247 [1833].**]

The preamble contemplates the body of electors composing the states, the terms "people" and "citizens" being synonymous. Negroes, whether free or slaves, were not included in the term "people of the United States at that time. [**Scott v. Sandford, 19 How 393, 404 [1857]**].

The words "sovereign state" are cabalistic words, not understood by the disciple of liberty, who has been instructed in our constitutional schools. It is our appropriate phrase when applied to an absolute despotism. The idea of sovereign power in the government of a republic is incompatible with the existence and foundation of civil liberty and the rights of property. [**Gaines v. Buford, 31 Ky. (1 Dana) 481, 501**].

XXX - GOVERNMENT

We the people are a Republic

REPUBLICAN GOVERNMENT. One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. [**In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627. Black's Law Dictionary, Fifth Edition, p. 626**]

DEMOCRACY GOVERNMENT. That form of government in which the sovereign power resides in and is exercised by the whole body of free citizens directly or indirectly through a system of representation, as distinguished from a monarchy, aristocracy, or oligarchy. [**Black's Law Dictionary, 5th Edition, p. 388; Bond v. U.S. SCOTUS**] recognizes personal sovereignty,
June 16, 2011

NEW YORK SUPREME COURT, COLUMBIA COUNTY

The People of New York

Coram Ipso Rege:

&

5 New York Unified Common Law Grand Jury

Coram Nobis:

-a-

STATE OF NEW YORK SUPREME COURT

10 Jonathan Lippman, Fern A. Fisher, Lawrence K. Marks,
Barry Kamins, Ronald Younkins,

Wrongdoers:¹

INDEX # _____

MAGISTRATE _____

MEMORANDUM OF LAW

15

LAW & JURISDICTION

THE QUESTION that will be answered by this memorandum of law is twofold, (1) is the Jurisdiction of this court a "Common Law"² "Court of Record", a system of jurisprudence, who's tribunal is the People; or is it Corporatism³"a Court not of Record", a system of corporate legislation, who's tribunal is a corporate officer of the court, aka judge? And, (2) is the law of the Land "statutes"⁴ or "Law"⁵? The expectations of the proceedings of this court is Justice and therefore according to Common Law.

People are despondent by the performance of the officers of their courts. People practicing law without the unconstitutional⁶ BAR title of "Esquire"⁷, find themselves hijacked, by the same,

¹ **WRONGDOER.** "One who commits an injury; a tort-feasor. The term ordinarily imports an invasion of right to the damage of the party who suffers such invasion". Merrill v. Comstock, 154 Wis. 434, 143 N.W. 313, 317.

² **The common law is the real law**, the Supreme Law of the land, the code, rules, regulations, policy and statutes are "not the law", Self v. Rhay, 61 Wn (2d) 261

³ **CORPORATISM.** [Webster] the organization of a society into industrial and professional corporations serving as organs of political representation and exercising control over persons and activities within their jurisdiction

⁴ **The general rule** is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose, since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing law. Indeed insofar as a statute runs counter to the fundamental law of the land, (the Constitution) it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it." Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886)

⁵ **AT LAW.** Blacks 4th. This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

⁶ **United States Constitution Article I. §9. line 8.** No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state. And the original **13th Amendment's ratified March 12, 1819**, [just "disappeared" in 1876]. [proof of ratification available upon request] "If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honour, ..., such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them."

⁷ **ESQUIRE.** In English law. A title of dignity next above gentleman, and below knight. Also a title of office given to sheriffs, serjeants, and barristers at law, justices of the peace, and others. 1 Bl.Comm. 406; 3 Steph.Comm. 15, note; Tomlins. On the use of this term in American law,

25 into corporate courts operating under corporate charters by magistrates fraudulently acting as the
tribunal and regularly adjudicating upon the people “no standing” or “no cause of action”.
Because these supposed courts of justice are fraudulently nisi prius⁸ courts it’s easy to see how
the victims, who don’t know enough to deny jurisdiction, are found having “no standing”. But as
for the “no cause of action”, according to even their own rules, it is in most cases out right
30 criminal, openly, with no shame.

Because New York judges and lawyers are educated at BAR schools that instruct seditious
statutes as law, and are under the fiction that common law has been legislated away and thereby
its jury⁹, we find it essential to instruct the officers of the court in history and law before we
proceed “at law”. They need only read the state constitution, confirmed as late as November 6,
35 2001 by the People, the US Constitution, and their own statues which also requires their
obedience, it cannot be more lucid, as follows.

New York Constitution Article VI. §1.b. The court of appeals, the supreme
court including the appellate divisions thereof, the court of claims, the county
court, the surrogate's court, the family court, the courts or court of civil and
40 criminal jurisdiction of the city of New York, and such other courts as the
legislature may determine shall be "Courts of Record¹⁰". [emphasis added]

New York Constitution Article VI §3.b.(2). ... As of right, from a judgment or
order of a "Court of Record" of original jurisdiction which finally determines an
action or special proceeding where the only question involved on the appeal is the
45 validity of a statutory provision of the state or of the United States under the
constitution of the state or of the United States; and on any such appeal only the
constitutional question shall be considered and determined by the court.
[emphasis added]

NY LAW Article 2 §2 Each of the following courts of the state is a "Court of
50 Record": The court for the trial of impeachments, a court on the judiciary, the
court of appeals, the appellate division of the supreme court in each department,
the supreme court, the court of claims, a county court in each county, except the
counties of New York, Bronx, Kings, Queens and Richmond, the family court, a
surrogate's court in each county, each city court outside the city of New York, the

particularly as applied to justices of the peace and other inferior judicial officers, see *Christian v. Ashley County*, 24 Ark. 151; *Corn. v. Vance*, 15 Serg. & R., Pa., 37.

⁸ **NISI PRIUS COURT** "Nisi prius" is a Latin term (Black's 5th) "Prius" means "first." "Nisi" means "unless." A "nisi prius" procedure is a procedure to which a party FIRST agrees UNLESS he objects. A rule of procedure in courts is that if a party fails to object to something, then it means he agrees to it. A nisi procedure is a procedure to which a person has failed to object A "nisi prius court" is a court which will proceed unless a party objects. The agreement to proceed is obtained from the parties first.

⁹ Tribunal.

¹⁰ **A COURT OF RECORD** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial. *Jones v. Jones*, 188 Mo.App. 220, 175 S.W. 227, 229; *Ex parte Gladhill*, 8 Metc. Mass., 171, per Shaw, C.J. See, also, *Ledwith v. Rosalsky*, 244 N.Y. 406, 155 N.E. 688, 689

55 district court in each county or portion thereof in which such court shall be
established, the civil court of the city of New York and the criminal court of the
city of New York, **all courts other than those specified in this section are**
Courts not of Record. [emphasis added]

Therefore all municipal courts (village, town, and city) are not courts of record and have
60 no jurisdiction without consent, whereas victims are ruse into making a plea, thereby
consent, but because the contract is hidden this too is fraud.

N.Y.JUD.LAW§753:(A) A "Court of Record" has power to punish, by fine and
imprisonment, or either, a neglect or violation of duty, or other misconduct, by
which a right or remedy of a party to a civil action or special proceeding, pending
65 in the court may be defeated, impaired, impeded, or prejudiced, in any of the
following cases: (1) An attorney, counselor, clerk, sheriff, coroner, or other
person, in any manner duly selected or appointed to perform a judicial or
ministerial service, for a misbehavior in his office or trust, or for a willful neglect
or violation of duty therein; or for disobedience to a lawful mandate of the court,
70 or of a judge thereof, or of an officer authorized to perform the duties of such a
judge. ... (7) An inferior magistrate, or a judge or other officer of an inferior court,
for proceeding, contrary to law, in a cause or matter, which has been removed
from his jurisdiction to the court inflicting the punishment; or for disobedience to
a lawful order or other mandate of the latter court. (8) In any other case, where an
75 attachment or any other proceeding to punish for a contempt, has been usually
adopted and practiced in a "Court of Record", to enforce a civil remedy of a party
to an action or special proceeding in that court, or to protect the right of a party.

Courts not of record are those of inferior dignity, which have no power to fine or
imprison, and in which the proceedings are not enrolled or recorded. 3 Bl. Comm.
80 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte
Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229;
Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.

Article IV the Supremacy Clause that "ORDAINS" Common Law "the Law of the land";

85 *"This Constitution, and the laws of the United States which shall be made in*
pursuance thereof; and all treaties made, or which shall be made, under the
authority of the United States, shall be the supreme law of the land; and the
judges in every state shall be bound thereby, anything in the Constitution or laws
of any State to the contrary notwithstanding." **United States Constitution**
Article IV

90 Common law and its Jury have not been defeated, just hidden. The enemies of Liberty, who have
taken control of our education, just eliminated it from our curriculum along with a classical

education. It is first important to understand that a "Court of Record" is a "*judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial... a decision of a court of record may not be appealed and is binding on all other courts*". Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689. 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Exparte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.

It is also important to understand that the judicial tribunal is the sovereign of the court or the Jury, also-known-as the Kings Bench, which "IS" The Supreme Court of common law, according to Blacks Law, being so called because the king sat there in person, the style of the court being "*coram ipso rege*". See 3 Bl.Comm. 41-43. The New York Supreme Court, early on in 1829 confirmed this when it said; "*The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative*". Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7. The U.S. Supreme Court as late as 1973 and 1992 [in US v Williams] also confirmed that even they could not second guess the Jury when they said; "*The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it. Inferior courts are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law. Criminal courts proceed according to statutory law. Jurisdiction and procedure is defined by statute. Likewise, civil courts and admiralty courts proceed according to statutory law. Any court proceeding according to statutory law is not a court of record (which only proceeds according to common law); it is an inferior court.* Ex parte Watkins, 3 Pet., at 202-203. cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973). If the Kings Bench is not present in the Court it is not a Supreme Court of Common Law it is a nisi prius court and has no jurisdiction over the people summonsed before it without their consent.

Supreme Court Annotated Statue: CRUDEN vs. NEALE, 2 N.C. 338 2 S.E. 70 "*The state citizen is immune from any and all government attacks and procedure*". see, Dred Scott vs. Sanford. 60 U.S. (19 How.) 393 or as the Supreme Court has stated clearly, "*...every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowmen without his consent*".

It is at the Kings Bench (Jury) where the King (People) rules and decrees, it is at the moment of the impaneling of a Grand Jury when the Supreme Court opens for Justice. And if the Grand Jury indicts it passes the case for "final judgment" to the Petite Jury, thereby the Supreme Court remains in session until judgment is decreed. The Grand Jury is the decreeing body outside the court room and the Petite Jury is the decreeing body inside the court room.

The Grand Jury and Petite Jury are one, both are ministered by and made up of the People chosen at random, they act and decree under the principles of Common Law that being justice, honor, and mercy and they are guided by two common law maxims that being (1) without a victim there is no crime, and (2) for every injury there must be a remedy.

Justice James Wilson, 1790, said; *“The Jury is an important instrument of government, a great conduit of communication between those who make and administer the laws and the People. All the operations of government and all its officers come before the scrutiny of Juries, thereby giving them an unrivaled ability to advocate public improvements and expose corruption in government”*.
140

Thomas Jefferson spoke of the Jury in the Declaration of Independence when he penned *“governments are instituted among men, deriving their just powers from the consent of the governed”*. The American Jury is that institution whereby the People themselves consent to their actions; there exists no others. Therefore to deny the Jury is to deny the consent of the people and thereby self rule and Liberty.
145

The 7th Amendment makes it unambiguously clear that the courts are to proceed according to common law, and “NOT” statutes, for judges to rule and proceed contrary is treason.

And Amendment VII. *“In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law”*.
150

Evidently BAR indoctrinated lawyers have been beguiled into believing fiction, ever learning, and never able to come to the knowledge of the truth of the rich “Common Law Heritage” of the American People that are preserved in both the New York and United States Constitutions, and supported by statutes.
155

From the very beginning of our Nation BAR members have been sabotaging the American experiment in a concerted effort to subvert the people through an all out assault upon common law and the sacred institution of juries, that continues to this day;

The BAR lawyers/judges that claim *“that’s only in Federal Courts”*, need only acknowledge the power of the People to see truth. It has become clear that they are claiming that the states somehow over-ruled the Bill of Rights; contrary to the Article IV the Supremacy Clause that “ORDAINS” Common Law “the Law of the land”; contrary to the New York Constitution Article I §6 and Article I §8 that secure the Common Law Rights of the people; contrary to the overwhelming United States Supreme Court rulings that a law repugnant to the constitution is void and that judges in every state are bound thereby “BY OATH” to obey, without question, and contrary to New York statutes. The seditious mantras that common law has been done away within the United States is a lie straight out of the belly of the BAR, an illusion of their fiction.
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“... Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument.” [after more than 200 years this decision still stands] Marbury v. Madison 5 U.S. 137 (1803)
170

The states are powerless to legislate away the unalienable rights of the people under any circumstances; that would be sedition.

175 "*The state cannot diminish rights of the people.*" Hurtado v. People of the State of California, 110 U.S. 516

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them". Miranda v. Arizona, 384 US 436, 491.

180 "*As to the construction, with reference to Common Law, an important canon of construction is that constitutions must be construed to reference to the Common Law.*" *The Common Law, so permitted destruction of the abatement of nuisances by summary proceedings and it was never supposed that a constitutional provision was intended to interfere with this established principle and although*
185 *there is no common law of the United States in a sense of a national customary law as distinguished from the common law of England, adopted in the several states. In interpreting the Federal Constitution, recourse may still be had to the aid of the Common Law of England. It has been said that without reference to the common law, the language of the Federal Constitution could not be understood.*"
190 16Am Jur 2d., Sec. 114:

The state exists only by the consent of the people.

"That to secure Life, Liberty and the pursuit of Happiness, Governments are instituted among Men, deriving their just powers from the consent of the governed". **Thomas Jefferson Declaration of Independence.**

195 Evidently common law is not common opinion; common law is natural law built upon Biblical principles, maxims, and commonsense. As Lysander Spooner pointed out government cannot decide the law or exercise authority over jurors (the People) for such would be absolute government, absolute despotism. Such is our condition today. We the People are determined to end it, here, in New York, at this cross road!

200 The idea that "Common Law" has been done away with is purely a fantasy of the BAR, a fiction indoctrinated in the minds of their minions, a beguilement whose time has come to a sober end by the reality of truth. Law is not a system of statutes but a system of jurisprudence administered by purely secular tribunals. Jurisprudence is that branch of philosophy concerned with the law and the principles that lead courts to make the decisions they do, imposed by authority given by
205 the People alone. Judges by their oath are to yield their minds to jurisprudence and when they refuse to do so they war against the constitution, an act of treason;

210 *"Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason." - Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958)*

215 *"Since the constitution is intended for the observance of the judiciary as well as other departments of government and the judges are sworn to support its provisions, the courts are not at liberty to overlook or disregard its commands or counteract evasions thereof, it is their duty in authorized proceedings to give full effect to the existing constitution and to obey all constitutional provisions irrespective of their opinion as to the wisdom or the desirability of such provisions and irrespective of the consequences, thus it is said that the courts should be in our alert to enforce the provisions of the United States Constitution and guard against their infringement by legislative fiat or otherwise in accordance with these basic principles, the rule is fixed that the duty in the proper case to declare a law unconstitutional cannot be declined and must be performed in accordance with the delivered judgment of the tribunal before which the validity of the enactment it is directly drawn into question. If the Constitution prescribes one rule and the statute the another in a different rule, it is the duty of the courts to declare that the Constitution and not the statute governs in cases before them for judgment.*" – 16 Am Jur 2d., Sec. 155:

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Judges are under BAR induced delusions that they have absolute immunity but, here in NY, the few self-serving feeble cases that are cited making such a claim are without the authority of the people and will fail in courts of record. Only the people are sovereign, all public servants, Judges, prosecutors, D.A's, A.G's, police, Sheriffs, governors, and legislators are under statutes having a fiduciary duty to We the People, their employer, to act in good behavior to obey constitutional prohibitions i.e. the rule of law, placed there by We the People, and are therefore liable for prosecution when then do not behave accordingly. *"Where there is no jurisdiction, there can be no discretion"*, they are not above the law when they commit a crime they will go to jail and are subject to civil suits.

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240 *"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it ... it is the only supreme power in our system of government, and every man who, by accepting office participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives." U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882)*

three branches owe their existence to the People, are subservient to the People, and have been given no authority to legislate the behavior of the People.

270 New York courts of justice by constitution are courts of record that are to proceed according to
common law and when they covertly proceed under statutes they act contrary to the law. These
undisclosed “Nisi Prius” Courts, operating akin to municipal courts have the deliberate outward
appearance of authority but inwardly are full of dishonesty, treachery and injustice. And because
all the officers, under the orchestration of the BAR, of such a court are compliant actors working
275 the scam upon its prey under the “color of law” they form a conspiracy to defraud their victims.
All acts performed under the auspices¹⁷ of such a nisi prius court are quasi¹⁸ judicial acts¹⁹ under
quasi-contractus²⁰ whereas the contract is deceitfully achieved and deliberately concealed as it
snares its victim, therefor all its acts are null and void, all its players subject to criminal and civil
prosecution under common law, where there exists no statute of limitations, and where it’s
280 victim at any time awakened, even after the illegal ruling and/or enforced payment thereof, can
recover full remedy from all the players, therefore broker beware.

In the Judicial Code of Professional Responsibility (Blacks Law 4th) §23 “...*The attorney client
relationship is personal and unique and should not be established as the result of pressures and
deceptions*”. Yet magistrates and lawyers in nisi prius courts work the prey to be represented by
285 a BAR lawyer who’s allegiance to the bar is to acquire statutory rule over its victim. Often when
met with resistance by an awakened victim the officers of such a court will go as far as
conspiring, for the court to have a competency hearing, in order to secure the victim under BAR
rule.

Decency, security, and liberty alike demand that government officials obey the law. In a
290 government of laws, existence of the government will be imperiled if it fails to observe the law
scrupulously. Crime is contagious, and when government becomes a lawbreaker, it breeds
contempt for the law; it invites every man to become a law unto himself. Therefore let We the
People counsel BAR lawyers/judges everywhere, that they would be well advised to take note,
that the 5th Amendment “is” Common Law, the Law of the Land, the state cannot diminish rights
295 of the people, and that there can be no rule making or legislation which would abrogate them. To
reject this is to war against the constitution and do violence against the People. Therefore this
Court is to proceed according to the course of common law, under the penalties of law, or release
its victim.

¹⁷ **AUSPICES.** Kindly endorsement and guidance.

¹⁸ **QUASI. Lat.** [Black’s Law 4th] As if; almost as it were; analogous to. This term is used in legal phraseology to indicate that one subject resembles another, with which it is compared, in certain characteristics, but that there are intrinsic and material differences between them. *Bicknell v. ,Garrett*, 1 Wash.2d 564, 96 P.2d 592, 595, 126 A.L.R. 258; *Cannon v. Miller*, 22 Wash.2d 227, 155 P.2d 500, 503, 507, 157 A.L.R. 530. *Marker v. State*, 25 Ala.App. 91, 142 So. 105, 106.

¹⁹ **QUASI JUDICIAL ACT.** [Black’s Law 4th] A judicial act performed by one not a judge. *State Tax Commission of Utah v. Katsis*, 90 Utah 406, 62 P.2d 120, 123, 107 A.L.R. 1477.

²⁰ **QUASI-CONTRACTUS (Lat).** [Black’s Law 4th] In civil law. An obligation similar in character to that of a contract, which arises not from an agreement of parties but from some relation between them, or from a voluntary act of one of them. An obligation springing from voluntary and lawful acts of parties in the absence of any agreement. *Howe. Stud. Civ. L.* 17L

NEW YORK SUPREME COURT, COLUMBIA COUNTY

The People of New York

Coram Ipso Rege:¹

&

New York Unified Common Law Grand Jury

Coram Nobis:²

-a-

STATE OF NEW YORK SUPREME COURT

10 Jonathan Lippman, Fern A. Fisher, Lawrence K. Marks,
Barry Kamins, Ronald Younkings,

Wrongdoers:³

INDEX # _____

MAGISTRATE _____

MEMORANDUM OF LAW

THE KINGS BENCH

20 THE PURPOSE of this memorandum is to clarify that the King’s Bench is the authority of the court and that a court of record is a court that proceeds according to the common law under the authority of the People:

The 5th Amendment “demands” a traditional Common Law Grand jury.

“The Court of Appeals’ rule would neither preserve nor enhance the traditional functioning of the grand jury that the “common law” of the Fifth Amendment demands.” UNITED STATES v. WILLIAMS; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352;

Every court is “bound” to obey the common law.

30 SUPREMACY CLAUSE – *“This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.” Article VI*

¹ Before the king himself the old name of the court of king’s bench, which was originally held before the king in person. 3 Bl.Comm. 41. “The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative”. Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7. [tribunal during trial]

² [Blacks Law] Before us ourselves, (the king, i. e., in the king’s or queen’s bench.) [tribunal pre-trial] **CORAM NOBIS.** [Blacks Law] Before us ourselves, (the king, i. e., in the king’s or queen’s bench.) Applied to writs of error directed to another branch of the same court, e. g., from the full bench to the court at *nisi prius*. 1 Archb. Pr. K. B. 234. See Writ of Error.

³ **WRONGDOER.** “One who commits an injury; a tort-feasor. The term ordinarily imports an invasion of right to the damage of the party who suffers such invasion”. Merrill v. Comstock, 154 Wis. 434, 143 N.W. 313, 317.

“... Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument.” after more than 200 years this decision still stands [**Marbury v. Madison 5 U.S. 137 (1803)**]

“If any statement, within any law, which is passed, is unconstitutional, the whole law is unconstitutional.” Marbury v. Madison: 5 US 137 (1803):

40 “... that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land.” Hoke vs. Henderson, 15, N.C. 15, 25 AM Dec 677].

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them" Miranda v. Arizona, 384 U.S. 436, 491

A court of record proceeds according to common law who's tribunal, We the People functioning independently of the magistrate:

50 "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial". Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

The New York Supreme Court is a “court of record.”

New York Constitution Article VI. §1.b. “The court of appeals, the supreme court including the appellate divisions thereof, the court of claims, the county court, the surrogate's court, the family court, the courts or court of civil and criminal jurisdiction of the city of New York, and such other courts as the legislature may determine shall be courts of record.”

Only court's of record can fine and incarcerate.

60 “Courts of Record and Courts not of Record the former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the

proceedings are not enrolled or recorded". 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52

NO criminal trial can proceed without the will of the People (Common Law Grand Jury) deceiving one of the People to make a plead does not give a judge authority to claim jurisdiction.

70 *"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, ... nor be deprived of life, liberty, or property, without due process of law;..."* 5th Amendment:

NO criminal trial can proceed without the will of the People (Common Law Trial Jury) a judge does not have the authority to make a judgment.

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury ... and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; ... and to have the Assistance of Counsel⁴ [not attorney] for his defense." 6th Amendment

No judge has the authority to second guess or overturn a decision by the People (Jury) and trial is to according to common law.

80 *"...the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law."* 7th Amendment

Judges are magistrates and not the tribunal they possess no power to make a ruling (judgment):

"Judges are magistrates" N.Y. CRC. LAW § 30 : NY Code - Section 30:

"Judges as Magistrates" New York Family Court - Part 5 - § 151

90 *"Acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony; proceeds according to the course of common law; has power to fine or imprison for contempt; possesses a seal; it's judicial tribunal has attributes and exercising functions independently of the person of the magistrate designated generally to hold it."* Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

The judicial executive branch have turned the New York State Supreme Court into a nisi prius court not of record thereby becoming a hybrid, combining a statutory and chancery court, both without the approval of the king, whereas justice can never be served.

⁴ COUNSEL. Blacks 4th In practice. An advocate, counsellor, or pleader. 3 Bl. Comm. 20 ; 1 Kent, Corum. 307. One who assists his client with advice, and pleads for him in open court.

“This maxim is applied by Lord Coke to courts, and, terms of law; minoritas being understood in the sense of difference, inferiority, or qualification. Thus, the style of the king's bench is coram rege, and the style of the court of chancery is coram domino rege in cancellaria; the addition showing the difference.” 4 Inst. 80. 2 Bl.Comm. 106; Litt. §1.

100 Statutory courts (officers of the court) cannot second guess the judgment of a court of record and are subject to collateral attack by the court of record (sovereigns of the court).

“The decisions of a superior court may only be challenged in a court of appeal. The decisions of an inferior court are subject to collateral attack. In other words, in a superior court one may sue an inferior court directly, rather than resort to appeal to an appellate court. Decision of a court of record may not be appealed. It is binding on ALL other courts. However, no statutory or constitutional court (whether it be an appellate or supreme court) can second guess the judgment of a court of record. The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as
110 *conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it.”* Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973)].

The People are the king and the king's bench is the Jury, grand or trial, only the sovereign people can be the tribunal.

CORAM IPSO REGE. *“Before the king himself the old name of the court of king's bench, which was originally held before the king in person.”* 3 Bl.Comm. 41. *“The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative”.* Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

KING'S BENCH. [Blacks Law] *“The supreme court of common law in England, being so called because the king used formerly to sit there in person, the style of the court being coram ipso rege.”* See 3 Bl.Comm. 41-43.

CORAM NOBIS. [Blacks Law] Before us ourselves, (the king, i. e., in the king's or queen's bench.) Applied to writs of error directed to another branch of the same court, e. g., from the full bench to the court at *nisi prius*. 1 Archb. Pr. K. B. 234. See Writ of Error.

130

TRIBUNAL. The seat of a judge; the place where he administers justice; but by this term is more usually understood the whole body of judges [jury] who compose a jurisdiction sometimes it is taken for the jurisdiction which they exercise.

ONLY THE KING (PEOPLE) IS SOVEREIGN – the state is a clipped sovereignty

NEW YORK CODE - N.Y. CVR. LAW § 2 : NY Code - Section 2: *“Supreme sovereignty in the people - No authority can, on any pretence whatsoever, be exercised over the citizens of this state, but such as is or shall be derived from and granted by the people of this state.”*

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“A consequence of this prerogative is the legal ubiquity of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice. His judges are the mirror by which the king's image is reflected”. **(Fortesc.c.8. 2Inst.186) [1 Blackstone's Commentaries, 270, Chapter 7, Section 379]**

“Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts And the law is the definition and limitation of power...” **[Yick Wo v. Hopkins, 118 US 356, 370 Quotiens dubia interpretatio libertatis est, secundum libertatem respondendum erit]**

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"The very meaning of 'sovereignty' is that the decree of the sovereign makes law." **[American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047].**

“In United States, sovereignty resides in people. The Congress cannot invoke the sovereign power of the People to override their will as thus declared.” **[Perry v. US, 294 U.S.330]**

“It is the public policy of this state that public agencies exist to aid in the conduct of the people's business.... The people of this state do not yield their sovereignty to the agencies which serve them. ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves...” **CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp471-472.**

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EXTRAORDINARY WRITS are the King's (Sovereign's) Remedy

EXTRAORDINARY REMEDIES. The writs of mandamus (*We Command*), quo warranto (*Kings inquiry of usurpers*), habeas corpus (*release from unlawful imprisonment*), and some others are sometimes called "extraordinary remedies," in contradistinction to the ordinary remedy by action. Receivership is also said to be an. "extraordinary remedy." **Prudential Securities Co. v. Three Forks, H. & M. V. R. Co., 49 Mont. 567, 144 P. 158, 159.**

170 **An extraordinary writ, issued by a superior court** to an inferior court to prevent the latter from exceeding its jurisdiction, either by prohibiting it from assuming jurisdiction in a matter over which it has no control, or from going beyond its legitimate powers in a matter of which it has jurisdiction. *State v. Medler, 19 N.M. 252, 142 P. 376, 377.*

An extraordinary judicial writ issuing out of a court of superior jurisdiction, directed to an inferior court or tribunal exercising judicial powers, for the purpose of **preventing the inferior tribunal from usurping a jurisdiction with which it is not lawfully vested**, (*State v. Stanfield, 11 Okl.Cr. 147, 143 P. 519, 522*); from assuming or exercising jurisdiction over matters beyond its cognizance, (*Jackson v. Calhoun, 156 Ga. 756, 120 S.E. 114, 115*); or from exceeding its jurisdiction in matters of which it has cognizance. (*Jackson v. Calhoun, 156 Ga. 756, 120 S.E. 114, 115*).

180 **QUO WARRANTO.** In old English practice. A writ, in the nature of a **writ of right for the king, against him who claimed or usurped any office, franchise, or liberty, to inquire by what authority he supported his claim, in order to determine the right.** It lay also in case of non-user, or long neglect of a franchise, or misuser or abuse of it; being a writ commanding the defendant to show by what warrant he exercises such a franchise, having never had any grant of it, or having forfeited it by neglect or abuse. 3 Bl.Comm. 262.; An extraordinary proceeding, prerogative in nature, addressed to preventing a continued exercise of authority unlawfully asserted. *Johnson v. Manhattan Ry. Co., N.Y., 53 S.Ct. 721, 289 U.S. 479, 77 L.Ed. 1331.*; It is intended to prevent exercise of powers that are not conferred by law, and is not ordinarily available to regulate the manner of exercising such powers. *State ex rel. Johnson v.*
190 *Conservative Savings & Loan Ass'n, 143 Neb. 805, 11 N.W.2d 89, 92, 93.*

Conclusion

The Kings bench is the seat of the tribunal (judge) for the supreme court of common law (court of record) made up of one or more sovereigns, with the power to fine or imprison for contempt and functions independently of the person of the magistrate. Therefore the kings bench can only be the Jury (grand or the petite) or the sovereign of the court. Whenever the Kings Bench is impaneled "by the people" a Court of Record is open whether it is in its investigative role (Grand Jury) or in its pre-trial mode (Petite Jury) its authority, power, judgments, and

200 jurisdiction is final and cannot be challenged or overturned. All courts not of record (without the kings bench) are inferior courts whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law. Criminal courts proceed according to statutory law. Jurisdiction and procedure is defined by statute. Likewise, civil courts and admiralty courts proceed according to statutory law. Any court proceeding according to statutory law is not a court of record (which only proceeds according to common law); it is an inferior court.

Extraordinary writs emanate from the Kings Bench, and although the tribunal is usually a body of judges, twelve or twenty-five, it can also be executed by the King (people) himself, and can only be refuted by the sworn affidavit of another King (people). These extraordinary writs are extraordinary "REMEDIES".

210 The Kings Bench is the Jury, grand or trial, and the magistrate is bound to obey the wish (will) of the King.